UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WPIX, INC., WNET.ORG, AMERICAN BROADCASTING COMPANIES, INC., DISNEY ENTERPRISES, INC., CBS BROADCASTING INC., CBS STUDIOS INC., THE CW TELEVISION STATIONS INC., NBC UNIVERSAL, INC., NBC STUDIOS, INC., UNIVERSAL NETWORK TELEVISION, LLC, TELEMUNDO NETWORK GROUP LLC., NBC TELEMUNDO LICENSE COMPANY, OFFICE OF THE COMMISSIONER OF BASEBALL, MLB ADVANCED MEDIA, L.P., COX MEDIA GROUP, INC., FISHER BROADCASTING-SEATTLE TV, L.L.C., TWENTIETH CENTURY FOX FILM CORPORATION, FOX TELEVISION STATIONS, INC., TRIBUNE TELEVISION HOLDINGS, INC., TRIBUNE TELEVISION NORTHWEST, INC., UNIVISION TELEVISION GROUP, INC., THE UNIVISION NETWORK LIMITED PARTNERSHIP, TELEFUTURA NETWORK, WGBH EDUCATIONAL FOUNDATION, THIRTEEN, and PUBLIC BROADCASTING SERVICE,

Plaintiffs,

v.

IVI, INC. and TODD WEAVER,

Defendants.

10 Civ. 07415 (NRB)

DECLARATION OF STEPHEN SEGALLER

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I, Stephen Segaller, hereby declare, under penalty of perjury, that the following statement is true and correct, to my personal knowledge.

I am Vice President, Content of WNET.ORG (sometimes referred to as the "Company"). In this position, I have primary responsibility for the coordination of all national and local programming from WNET.ORG's producing subsidiaries – THIRTEEN, WLIW21 and Creative News Group. Among the productions I coordinate are *Nature*, *Great Performances*, *American Masters*, *Cyberchase*, and *Need to Know*. I joined WNET.ORG in September 2008; prior to that, I worked for WNET.ORG's subsidiary, Educational Broadcasting Corporation, as Director of News and Public Affairs Programming. I have worked for EBC and WNET.ORG throughout the past ten years.

The activities of ivi, Inc. ("ivi") have harmed and are harming WNET.ORG and its subsidiaries.

I have learned that ivi began offering on-line access, via the Internet, to all of the programming broadcast by non-commercial educational broadcast Station WNET(TV), serving the New York, New York television market, as well as the children's programming on Kids 13, broadcast by the station on a HD multicast channel. WNET.ORG is the licensee of Station WNET(TV), which is operated pursuant to authorizations issued by the Federal Communications Commission.

I understand that to subscribe to ivi's service, and to gain access to all of the programming on Station WNET(TV), an individual with Internet access need only (a) access the ivi website (http://www.ivi.tv/) on his or her computer; (b) create an account by providing an e-mail address and a password; (c) agree to the terms of an end user license; and (d) pay ivi a fee. After a 30-day free trial, that fee is $4.99 per month. In exchange for paying this monthly fee, I understand that an ivi subscriber may download, install and use on a computer (or other applicable device) the ivi TV application and can then access the television programming exhibited by Station WNET(TV). I also understand that for an additional fee of $0.99 per month, the subscriber is able to pause, fast-forward to catch-up and rewind the programming that ivi streams.

The programming exhibited by Station WNET(TV) that ivi is currently streaming includes copyrighted programming owned entirely, or with others, by WNET.ORG and/or its wholly-owned subsidiaries. Such programming includes the projects which I supervise – *Need to Know*, *Cyberchase*, *Great Performances*, *American Masters*, and *Nature*.

Based upon my personal knowledge, ivi has not sought a license, or any type of consent or authorization, from WNET.ORG to stream the programming, including the copyrighted programming owned by WNET.ORG and/or its wholly-owned subsidiaries, that is broadcast by Station WNET(TV), and WNET.ORG has neither requested nor consented to any such streaming by ivi.

ivi's streaming of Station WNET(TV)'s television signal is a theft of the Company's television programming. WNET.ORG's principal source of revenue is from donations from our viewers and from underwriting by individual donors, foundations, organizations, and the U. S. government in support of our local television service and the programming we produce for distribution by PBS and broadcast by other local public television stations across the country. The ability of other public stations to acquire this programming is, in turn, dependent upon the support of their local audiences. We doubt that ivi's audience will result in additional support of this nature; it is much more likely that ivi's offering of the programming broadcast on Station WNET(TV) and distributed exclusively for broadcast on other U. S. non-commercial stations will result in a reduction of viewer support and underwriting for these broadcasts in New York and in other markets. ivi's service therefore threatens the ability of WNET.ORG to continue to produce programming for broadcast by public television stations and endangers the continued operation of Station WNET(TV) and the operation of other public broadcasting stations across the United States.

ivi's streaming of Station WNET(TV)'s broadcast signal also enables the station's television programming to be effectively retransmitted nationwide, and potentially around the world, without the ability of WNET.ORG to control its distribution, causing the Company to lose control of some of our most valuable property – the content of our programming, especially our copyrighted programming. Such worldwide distribution will violate and exceed the basis upon which WNET.ORG and/or its subsidiaries hold or share rights with other copyright holders in certain of this existing programming, and ivi's conduct would adversely affect necessary future arrangements of this type. It will also undermine the ability of WNET.ORG and/or our producing partners to license such programming for international exhibition, further eroding potential revenue sources to support program production expenses.

ivi's current activities and its public statements concerning its plans to expand those activities may encourage others to similarly steal Station WNET(TV)'s broadcast signal and the copyrighted programming it produces; in fact, at least one other similar service, FilmOn.com, has already emerged since the commencement of ivi's operation, and similarly claims that it does not need the consent of, or agreements with, the copyright owners of programming it transmits to operate in the same manner as ivi's service.

For these reasons, WNET.ORG will suffer immediate and irreparable injury unless the court acts to enjoin ivi's service.

I declare under penalty of perjury that the foregoing is true and correct.

Stephen Segaller

Executed on October 8, 2010